

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Middeldorp et al.

Serial No.: 10/036,729

Filed: December 21, 2001

For: *PEPTIDES AND NUCLEIC ACID SEQUENCES RELATED TO THE EPSTEIN BARR VIRUS*

Confirmation No.: 6359

Group Art Unit: 1633

Examiner: Qian Janice Li

Date: April 14, 2008

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RECORDATION OF INTERVIEW SUMMARY
IN ACCORDANCE WITH M.P.E.P. § 713.04**

Sir:

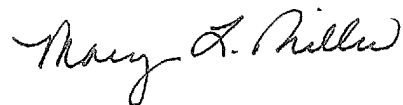
To record the Interview Summary mailed on March 13, 2008 and again on March 20, 2008 regarding the above-referenced patent application, applicants concur only in part that the Interview Summary accurately reflects the substance of the telephonic interview of January 29, 2008, in which Examiner Q. Janice Li, Examiner Joseph Woitach and applicants' representatives, Dr. Mary Miller and Dr. Alice Bonnen, participated. Specifically, it is the applicants' recollection that during the interview it was pointed out, as had been previously pointed out in a response dated July 23, 2007, that the cited references (Laux et al. and Bankier et al.) failed to disclose the claimed sequences of the invention and the full-length sequence identified in the PTO search was not dated prior to the priority date of the present invention, thereby providing no basis for rejecting the claimed invention as anticipated by these documents. Applicants requested that if the anticipation rejection were to be maintained, that an appropriate reference be provided, if such reference exists, showing that the claimed sequences were known to the public prior to the priority date of the present application.

More than seven weeks later, applicants still had not been made aware of any reference(s) demonstrating that the claimed sequences were publicly available prior to the priority date of the

present application, despite two follow-up telephone calls to the Examiner after the January 29, 2008 interview, requesting any such information. In order to avoid further extension fees, applicants prepared and submitted a response to the pending Office Action (dated October 16, 2008), along with a Request for Continued Examination, on March 16, 2008. It was only after this submission that applicants received this Interview Summary informing the applicants that the Examiner was relying on a new reference, Baer et al. (Nature 310:207-211 (1984)) to maintain the rejections of record. Applicants believe any rejection of the pending claims as allegedly anticipated by Baer et al. is a new rejection and should be set forth as such if appropriate in a non-final Office Action so that the applicants can respond accordingly and that the rejections of the pending claims as allegedly anticipated by Laux et al. and Bankier et al. should be withdrawn.

No fee is believed due with this document. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account 50-0220.

Respectfully submitted,



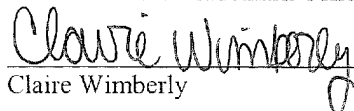
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CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on April 14, 2008.


Claire Wimberly